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**AMENDMENT TO H.R. 1664, AS REPORTED
OFFERED BY MR. SHERMAN OF CALIFORNIA**

In subsection (e) of the matter proposed to be inserted by section 1(a) of the bill, redesignate paragraph (3) as paragraph (4) and insert after paragraph (2) the following:

1 “(3) PER SE UNREASONABLE OR EXCESSIVE
2 COMPENSATION.—

3 “(A) IN GENERAL.—Notwithstanding the
4 standards established by the Secretary under
5 paragraph (2), a compensation payment or
6 compensation payment arrangement is unrea-
7 sonable or excessive under paragraph (1)(A) if
8 such payment or payment arrangement results
9 in any executive or employee receiving total
10 compensation of greater than \$1,000,000 per
11 year.

12 “(B) DEFINITIONS.—For purposes of this
13 paragraph—

14 “(i) the term ‘total compensation’
15 means any type of compensation (whether
16 present, deferred, or contingent) but does

1 not include restricted stock, restricted op-
2 tions, or sales commissions;

3 “(ii) the term ‘restricted stock’ means
4 any share of common stock of the TARP
5 recipient (or any affiliate thereof), but only
6 if the executive or employee receiving such
7 share—

8 “(I) is required to hold such
9 share until after the date on which all
10 financial assistance provided under
11 this title has been repaid in full by the
12 TARP recipient, along with any con-
13 tractual dividend payments owed to
14 the Federal government by the TARP
15 recipient; and

16 “(II) is restricted from
17 hypothecation, short sale, or any other
18 transaction which insulates the execu-
19 tive or employee from a decline in the
20 value of such stock or option;

21 “(iii) the term ‘restricted option’
22 means an option to purchase restricted
23 stock at a price at least equal to its fair
24 market value on the option grant date, but

1 only if the executive or employee receiving
2 such restricted option—

3 “(I) is restricted from exercising
4 such option or from selling restricted
5 stock acquired with such option until
6 after the date on which all financial
7 assistance under this title has been re-
8 paid in full by the TARP recipient,
9 along with any contractual dividend
10 payments owed to the Federal govern-
11 ment by the TARP recipient; and

12 “(II) is restricted from
13 hypothecation, short sale, or any other
14 transaction which insulates the execu-
15 tive or employee from a decline in the
16 value of such stock or option;

17 “(iv) the term ‘sales commission’
18 means any compensation determined solely
19 by reference to the products sold by an ex-
20 ecutive or employee as a commissioned
21 sales person through direct interaction
22 with purchasers; and

23 “(v) the term ‘commissioned sales per-
24 son’ is an executive or employee who re-
25 ceives commissions, who spends the major-

1 ity of work time selling products directly to
2 purchasers, and who is not one of the per-
3 sons defined in Rule 16a-1(f) promulgated
4 under the Securities Exchange Act of
5 1934.

6 “(C) ADJUSTMENT.— The amount de-
7 scribed in paragraph (1) shall be increased an-
8 nually to reflect increases in cost of living and
9 calculated on the basis of the Consumer Price
10 Index for all urban consumers published by the
11 Bureau of Labor Statistics

12 “(D) RULE OF CONSTRUCTION.—Nothing
13 in this paragraph shall be construed to prohibit
14 the Secretary from establishing standards under
15 paragraph (2)(A) which—

16 “(i) define as unreasonable or exces-
17 sive compensation payments or compensa-
18 tion payment arrangements that result in
19 an executive or employee receiving total
20 compensation in an amount that is less
21 than \$1,000,000 per year; or

22 “(ii) treat sales commissions, re-
23 stricted stock, or restricted options as com-

1 pensation for purposes of such stand-
2 ards.”.

